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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Seventh session

SUMMARY RECORD OF THE 7th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 26 November 1992, at 3 p.m.

Chairman: Mr. ALSTON

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GE.92-18605 (E)

The meeting was called to order at 3.40 p.m.

CONSIDERATION OF REPORTS (agenda item 5)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Poland (E/1990/7/Add.9) (continued)

1. At the invitation of the Chairman, Mrs. Niewiadomska, Mr. Dembinski and Mr. Kedzia (Poland) took places at the Committee table.

2. Mr. DEMBINSKI (Poland) thanked Committee members for their questions, which the Polish delegation would do its best to answer. As far as constitutional matters were concerned, he recalled that from 1952 Poland had been governed by a Stalinist Constitution that had made of the State a monolithic structure under the sole direction of the Communist Party. The major changes since 1989 to democratize that Constitution had not and could not have been expected to give a satisfactory result. In August 1992, Parliament had adopted a Constitutional Act, which would come into force in a matter of weeks (Poland was at present still governed by the 1952 Constitution). That Constitutional Act was termed the "Little Constitution" in Polish because it covered major items only: separation of powers, organs of State, the relations between those organs, etc. It abolished the 1952 Constitution, while retaining a number of sections in an amended form, including those relating to human rights. Since such a structure was not very satisfactory, the President had recently submitted to Parliament a draft charter of rights and freedoms for adoption, by a two-thirds majority, as a constitutional act. If adopted, the charter would have the same status as the Constitution.

3. As to the content of the charter, it was necessary to distinguish between individual rights and the obligations of the State. The charter dealt essentially with individual human rights (the right to education, the right of access to culture); only in its last section did it cover the State's obligations (provision of health care, education, etc.). The human rights enshrined in the charter were safeguarded at three levels: all citizens had access to the courts; any citizen could challenge the constitutionality of any law in a constitutional court; and any citizen could appeal to any of the international human rights bodies established under the treaties to which Poland was a party.

4. As far as the relationship between international law and domestic law was concerned, a distinction should be made between the situation before and after 1989. Before 1989, international instruments had been ratified by a body now defunct, the Council of State, and were not directly applicable in domestic law. Since 1989, international instruments had been ratified by Parliament. In June 1992, the Supreme Court had before it a case in which the plaintiff invoked the Convention on the Rights of the Child and had ruled that all international instruments ratified by the Polish Parliament and published as laws were directly applicable by Polish courts. One problem, however, had arisen with international instruments ratified under the former system. In the new Constitution about to come into force, the rule that international

instruments were directly applicable in Polish law would seemingly apply to all international instruments to which Poland was a party. At present, however, the Covenants were not applicable as such, but only in so far as they had been transmuted into Polish law.

5. The form the economic, social and cultural rights enshrined in the Covenant took in the Polish legal system was generally as individual human rights safeguarded as such by the Constitution; only when the nature of the right in question, or its economic implications, required it were they expressed as State obligations. The implementation of economic, social and cultural rights, as aspired to by the people, was in any case a priority.

6. Mr. KEDZIA thanked the members of the Committee for their very informative questions, which highlighted problems or threw new light upon them. One Committee member had asked what would happen in the case of a pupil or student whose views on religious instruction differed from those of its parents. As far as he knew, such a circumstance had not arisen but it could well do so. As a former teacher, he felt that in such a case the wishes of the pupil should prevail. That, indeed, was what the law provided, at least where the pupil or student was over 19 years of age.

7. In the case of teachers' average pay, the Government's aim was to link it to average pay in the manufacturing sector (p. 35 of the revised report submitted by Poland following receipt of the Committee's questions - document without reference number). That ideal was not always attained. In 1988, for example, teachers' average pay came to only 81 per cent of that of persons working in the socialized economy (p. 35). However, that coefficient had risen to 121 per cent in 1990 and subsequently had improved still further at all levels of education. Teachers' average pay had risen to Zl 3,100,000 since 1 June 1992 (p. 76). Parity in levels of pay between education and the economy as a whole would thus appear to have been achieved. He trusted that answered the question on teachers' social conditions, which largely depended on their pay.

8. The brain drain was a problem in Poland, but one difficult to quantify. Of the scientists or research workers who went abroad, 10 to 20 per cent decided to remain there, but those were imprecise or "grey" figures. It was difficult to see any specific international action that might help Poland in that respect. He hoped that free movement of scientists and an improvement in Poland's economic situation would provide the solution.

9. At present, sex education was not a separate subject but was included in the teaching of biology. In addition, one hour a week was set aside for a teacher to address any subject of his choice with his class. That could be used for a brief review, or alternatively for detailed discussion, of sex education matters, AIDS, etc. As part of the anticipated reform of general education curricula, there were plans to promote what was termed a "healthy lifestyle". There again, no specific subject was envisaged but matters related to nutrition, sport, physical activity, as well as sexual activity, AIDS, drug abuse, alcoholism and smoking would be integrated into the various subjects taught, at all levels from kindergarten up.

10. Teaching on human rights was, like the teaching of foreign languages and economics, one of the three main areas of the Polish education system calling for reform. Training institutes for language teachers had been established two years previously, while a number of concepts relating to human rights had been included in school curricula. As regarded the actual teaching of human rights and democracy, a programme had been initiated by the Polish Ministry of Education, to prepare school curricula and textbooks and provide in-service training for teachers. Teachers who had, for decades, been educated in Marxist-Leninist ideology were clearly ill-equipped to teach the principles of democracy. The Ministry of Education had prepared a booklet for them, entitled "Urban society", on the democratic society and the market economy. A number of copies were available for members of the Committee.

11. The proportion of the budget allocated to education had declined slightly in recent years from 11.7 per cent in 1989 to approximately 10.3 per cent in 1992 (estimated figures). That fall had been caused by the economic difficulties Poland was facing. Although as a former teacher he considered that priority should be given to education, he recognized that in times of economic difficulty it was not easy to decide which sector should be given preference.

12. On the revision of textbooks, he reported that because school books, including history books, had already been updated there was no urgent need for their further revision.

13. On private education, some correction was required for the figures given for non-State schools. There were 370 such schools in Poland: 155 primary schools, 158 general secondary schools and 57 vocational schools. Primary and secondary schools in the non-State sector represented only 8 per cent and 10 per cent, respectively, of all primary and secondary establishments, each level accounting for no more than 2 per cent of children of school age.

14. Families without the means to send their children to primary or secondary school received assistance from the State, while there was a scholarship system for children in disadvantaged circumstances who wished to continue to higher education.

15. As to universities, an Act relating to higher education, adopted in September 1990, governed the operation and internal organization of universities and determined their degree of autonomy, which was apparent in the freedom enjoyed by research, artistic creation and teaching.

16. With regard to access by foreigners to education, foreigners resident in Poland received a permanent residence permit and had the same rights to education as Poles. For foreigners remaining less than three months in Poland the question of education did not arise. However, there was nothing to prevent a foreigner temporarily in the country, if he so wished, from placing his children in school for one or two months.

17. The increase in anti-social behaviour among young people was a very interesting subject that called for further research. That having been said, he did not consider the phenomenon, in so far as it existed, to be a product

of the economic difficulties that beset education. He hoped to be in a position to provide information on the subject in the next report his country would submit to the Committee.

18. On the matter of further training for adults, he pointed out that there had always been further training courses in Poland. However, such courses now needed to adapt to the new economic situation in the country and aim at imparting elementary economic concepts and fostering a spirit of enterprise and initiative. There were also establishments providing elementary education for adults, in the form of evening classes and part-time courses.

19. Employment of retired teachers would undoubtedly make it possible to benefit from their experience, but might cause problems in so far as they were not all well equipped to teach certain subjects such as human rights nor willing to follow retraining courses and, given the high rate of unemployment in Poland (approximately 13 per cent), it would make it more difficult still for young graduates to find work.

20. As to the question of whether only State schools received State subsidies, he reported that State schools, and some schools that although not State-run were considered part of the State network, received subsidies. Private schools following the teaching curricula drawn up by the State received subsidies equivalent to 50 per cent of those given to State schools.

21. Mrs. NIEWIADOMSKA (Poland) said that in 1992, 0.76 per cent of the State budget was allocated to cultural and artistic activities. Communities enjoyed a measure of autonomy in the cultural field. They were at liberty to abolish cultural associations or to establish new ones. They sometimes had recourse to private funds and turned to small enterprises for help in organizing cultural activities such as campaigns to promote the sale of books or video cassettes or campaigns to encourage language learning.

22. As for censorship, the Act of 11 April 1990 had dissolved the body monitoring publications and artistic performances.

23. The social situation of those employed in the performing arts was better than in other professions. Before 1989, performers could travel abroad; their only problem was in transferring royalties earned abroad to Poland because of currency controls. Consequently, Poland had not suffered a flight of professional performers; the only performers emigrating during the 1980s had gone for political reasons.

24. As for cultural associations, Parliament had, on 7 April 1989, adopted an Act guaranteeing freedom of association and expression and recognizing the right of every citizen to play an active part in the life of the country. Since the promulgation of that Act, 200 cultural associations had been formed, most in the literary sphere.

25. As far as writers were concerned, a new bill on copyright envisaged the establishment of a body to protect writers' interests and provide collective management of their rights.

26. Writers and performing artists enjoyed a measure of tax relief; authors' rights were taxed at only 25 per cent whereas performing rights and royalties were taxed at 50 per cent. Foundations for the performing arts and the private activities of groups of performing artists were not subject to income tax.

27. The CHAIRMAN asked whether any member of the Committee wished to have further information on any of the points covered by the Polish delegation in replying to the questions.

28. Mr. RATTRAY asked for confirmation or denial of a single point: whether in its efforts to privatize and dismantle the former planned economy of the country, the Polish State expected to continue to be the main provider of funds for education or was the long-term plan to privatize the educational system as well?

29. Mrs. JIMENEZ BUTRAGUEÑO, recalling the radical changes the new Polish Constitution had made in the country's legal system, asked whether it was the responsibility of the ordinary courts to rule on the constitutionality of former laws or whether there was a constitutional court for the purpose. She also asked whether it was possible to receive a retirement pension at the same time as an income from part-time employment. Furthermore, Mrs. Niewiadomska had not specified whether the elderly were entitled to any special benefits that would make it easier for them to have access to museums, theatres and other cultural establishments. Lastly, she understood the desire to give priority in employment to young people and that teachers at present reaching retirement age were ill-equipped to teach new subjects, such as human rights; however it was still true that they could continue working in traditional areas such as mathematics, possibly on a voluntary basis, particularly where there were problems. Had no provision been made for putting their expertise to good use?

30. Mr. KEDZIA (Poland) said that the Polish State had no intention of evading its responsibilities by privatizing education across the board. Although the opportunity to open private schools was there, the principle of free education would be maintained - at least at the level of compulsory schooling.

31. Persons of retirement age had the option of working part-time while keeping their pension, which they could not do if in full-time employment, when payment of the pension would be deferred. Since there was no shortage of teachers in Poland, the education authorities had no need to call on the services of retirees, but were willing to make it possible for them, provided they were in good health and wished to do so, to give the benefit of their experience to young teachers, as part of in-service teacher's training.

32. Mr. DEMBINSKI (Poland) said that a constitutional court had been established in 1986.

33. Mrs. NIEWIADOMSKA (Poland) said that in the case of access to cultural establishments, museums and cultural centres were open every day and entry was free of charge. Once a month, seats in theatres and opera houses were free of

charge to school children and retired persons. Most libraries were open to the public every day; readers' tickets and the loan of books were free of charge.

34. The CHAIRMAN, speaking in his capacity as a member of the Committee, said that it would be interesting to examine, in the context of the right to take part in cultural life, the question of entrance fees to cultural establishments, given the present trend to require even museums and libraries to be self-financing.

35. He thanked the Polish delegation for the comprehensive information they had given the Committee and hoped that future dialogue with the Polish State would be as productive as it had been on the present occasion. He informed the Polish representatives that they were entitled to be present during the Committee's consideration of its concluding observations on their country's report but not to take part in the discussion. He declared the Committee to have completed its consideration of the second periodic report of Poland.

36. Mr. Dembinski, Mr. Kedzia and Mrs. Niewiadomska (Poland) withdrew.

OTHER MATTERS

37. The CHAIRMAN informed members of the Committee that the secretariat had received a letter from the International Fellowship of Reconciliation (IFOR), drawing the Committee's attention to a stamp issued by the Iranian postal administration, which in IFOR's opinion constituted an incitement to national, racial and religious hatred. IFOR requested the Committee to bear the matter in mind when it considered the report of the Islamic Republic of Iran at its eighth session.

38. He drew attention to the latest changes made to the Committee's programme of work and indicated that the draft report on the right to take part in cultural life as enshrined in article 15 of the Covenant, prepared by Mr. Konate (E/C.12/1992/WP.4), would be considered during the general discussion to take place on 7 December. It was his understanding that the members of the Committee were agreed that the 8th meeting should be devoted to an exchange of views on the draft general observation on the economic, social and cultural rights of the elderly prepared by Mrs. Jimenez Butragueño (E/C.12/1992/WP.1), before the adoption of that draft, either at the same meeting or at that on the morning of 1 December.

The meeting rose at 5.10 p.m.